

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
ROBERT CARDWELL, Assignee	)	File No. 0004009600
PAPPAMMAL KURIAN, Assignor	)	
	)	
Application for Assignment of Authorization	)	

**ORDER**

**Adopted: August 9, 2010**

**Released: August 9, 2010**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* This *Order* addresses a petition filed by Thomas K. Kurian (“Mr. Kurian”) to deny the above-captioned application to assign the license for 800 MHz Industrial/Land Transportation Station WNMR238 from Pappammal Kurian (“Ms. Kurian”) to Robert Cardwell (“Cardwell”).<sup>1</sup> For the reasons discussed below, we deny the petition, and will process the application.

2. *Background.* Pursuant to the Marital Property Settlement Agreement (Settlement Agreement) executed by Ms. Kurian and her former husband Mr. Kurian, and approved by the District Court of Clark County, Nevada, Family Division (“Family Court”) on July 1, 2005, Mr. Kurian agreed to transfer to Ms. Kurian any and all FCC licenses then held in his name or in the names of certain specified business entities awarded to her in the Settlement Agreement, and to “effectuate the assignment and transfer of any and all licenses currently held in the names of any other third-party, in which [Ms. Kurian] or the Entities may have an interest.”<sup>2</sup> At the time, the license for Station WNMR238 was held in Mr. Kurian’s name.

3. After a subsequent mediation, on March 29, 2006, the Kurians executed a Memorandum of Understanding (“MOU”) to resolve outstanding issues following the dissolution of their marriage.<sup>3</sup> In the MOU, the Kurians agreed to enforce the Settlement Agreement.<sup>4</sup> On May 10, 2007, the District Court of Clark County, Nevada (“District Court”) found that the MOU “was a final resolution of the issues between the parties.”<sup>5</sup> The District Court also noted that “none of the call signs awarded to either party in the [Settlement] Agreement . . . was ever identified with any degree of specificity in the record in this case,”<sup>6</sup> and directed the parties to identify the call signs in which either party claimed ownership that was

<sup>1</sup> Opposition to Assignment of Authorization and Transfers of Control of Callsign WNXG425 and WNMR238 (filed October 30, 2009) (“Petition”). While the Petition refers to both Stations WNXG425 and WNMR238, there currently is no application pending to assign the license for Station WNXG425.

<sup>2</sup> Settlement Agreement at 2, attached to Kurian v. Kurian, Case No. D30700, *Decree of Divorce* (Dist. Ct. Family Div., Clark County, Nev. July 1, 2005); *see also* Kurian v. Kurian, Case No. D30700, *Order of the Court* at 2 (Dist. Ct. Family Div., Clark County, Nev. dated July 7, 2005, filed July 12, 2005) (“July 2005 Court Order”).

<sup>3</sup> Memorandum of Understanding, executed on March 29, 2006 by Thomas Kurian and Pappammal Kurian, at 1.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> Findings of Fact and Conclusion of Law, District Court of Clark County Nevada, dated May 10, 2007 (“May 2007 Court Order”) at 2.

<sup>6</sup> *Id.*

disputed by the other party.<sup>7</sup> Neither party submitted a list of disputed call signs to the court.<sup>8</sup>

4. On June 26, 2007, an application was filed to assign the license for Station WNMR238 from Mr. Kurian to Ms. Kurian.<sup>9</sup> Commission staff reviewed the application and, in accordance with the Settlement Agreement, consented to the application on July 23, 2007.

5. On October 28, 2009, the instant application to assign the license from Ms. Kurian to Cardwell was filed. Mr. Kurian filed a petition to deny, arguing that the 2007 assignment to Ms. Kurian was unauthorized and premature, given the District Court's declaration that the call signs awarded to Ms. Kurian by the Settlement Agreement had not been specifically identified.<sup>10</sup> Caldwell filed an opposition.<sup>11</sup> Mr. Kurian filed a reply.<sup>12</sup>

6. *Discussion.* We agree with Cardwell that Ms. Kurian is the proper licensee of Station WNMR238.<sup>13</sup> The Settlement Agreement provided that Mr. Kurian would assign to Ms. Kurian "any and all licenses held in the names of: Thomas Kurian . . . ."<sup>14</sup> The MOU reaffirmed the parties' intent to enforce the Settlement Agreement. The District Court found that the MOU constituted a final resolution of the issues between the Kurians. The District Court's observation that the record before the court did not identify all of the call signs that had been awarded to Ms. Kurian is relevant to the parties' dispute that continued with respect to certain licenses held in the name of third parties, but it cast no doubt on the intent of the court and the parties to assign all licenses held in Mr. Kurian's name, including Station WNMR238, to Ms. Kurian.

7. *Conclusion.* That the Commission is not the proper forum for the resolution of private disputes that should be resolved in courts of competent jurisdiction<sup>15</sup> does not require us to refuse to act on a given license after such a court has spoken on the matter. The proceedings in the Nevada courts clearly indicate that Ms. Kurian is to receive all licenses that were held in Mr. Kurian's name at the time of the Settlement Agreement. As a result, we conclude that Ms. Kurian is authorized to assign the license

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<sup>7</sup> *Id.* at 4.

<sup>8</sup> See Replay [sic] to the FCC Letter dated March 15, 2010 (filed Mar. 19, 2010 by Mr. Kurian).

<sup>9</sup> FCC File No. 0003087467.

<sup>10</sup> See Petition at 3. Mr. Kurian also asserts that the July 2005 Court Order is fraudulent, but presents no evidence for this assertion. See *id.* at 2-3. Moreover, we need not rely on the July 2005 Court Order, given that the May 2007 Court Order affirms the binding effect of the Settlement Agreement and the MOU.

<sup>11</sup> Reply to Opposition to Assignment of Authorization and Transfer of Control of Call Sign WNMR238 (filed November 9, 2010) (Opposition).

<sup>12</sup> Reply to, the Reply to Opposition to Assignment of Authorization and Transfers of Control of Call Sign WNMR238 (filed November 24, 2009). On March 15, 2010, the Wireless Telecommunications Bureau's Mobility Division asked the parties to supplement the record regarding the MOU and other matters. See Letter dated March 15, 2010 from Scot Stone, Deputy Chief, Mobility Division to Thomas K. Kurian; Letter dated March 15, 2010 from Scot Stone, Deputy Chief, Mobility Division to Pappammal W. Kurian. Mr. Kurian replied to the request on March 19, 2010, see Replay [sic] to the FCC Letter dated March 15, 2010 (filed March 19, 2010), and supplemented his response on April 19, 2010, see Supplementary Information to FCC Letter dated March 15, 2010 (filed April 19, 2010).

<sup>13</sup> See Opposition at 2-3.

<sup>14</sup> See Settlement Agreement at 2.

<sup>15</sup> See, e.g., PCS 2000, L.P., *Memorandum Opinion and Order*, 13 FCC Rcd 1681, 1691 (1997) (deferring to the courts to adjudicate matters involving private rights); John F. Runner, Receiver (KBIF), *Memorandum Opinion and Order*, 36 R.R.2d (P&F) 773, 778 (1976) (local court of competent jurisdiction, not the FCC, is the proper forum to resolve private disputes).

for Station WNMR238 to Cardwell. Therefore, we deny the petition to deny the assignment application, and will process the application accordingly.

8. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 309(d), and Section 1.939 of the Commission's Rules, 47 C.F.R. § 1.939, the petition to deny filed by Thomas K. Kurian on October 30, 2009 IS DENIED, and application FCC File No. 0004009600 SHALL BE PROCESSED in accordance with this *Order* and the Commission's Rules.

9. These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau